APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,447	02/25/2004	Jun Hosoda	04112 /LH	5646

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EXAMINER
NEGRON, WANDA M

ART UNIT	PAPER NUMBER
2622	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/787,447	HOSODA ET AL.
	Examiner	Art Unit	
	Wanda M. Negrón	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>06 August 2007</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-4</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-4</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Suemoto et al. (US Application Publication No. 2001/0009443 A1), and further in

view of Abgrall (US Patent No. 6,401,202 B1).

Regarding **claim 1**, Suemoto et al. disclose a camera device (see figures

7A-7B) comprising an optical system (14, 26, 28, 61 and 74), a driving unit which drives

the optical system (24), and a control unit (22) which (i) when the camera device is

started up in a state in which a recording mode for photographing is set (see

paragraphs [0066]-[0068]), controls the driving unit to move the optical system to a

predetermined state, i.e. an initialization or home positions (see paragraphs [0054],

[0081]), by an initialization processing based on a startup program (see paragraphs

[0052], [0054]), and (ii) when the camera device is started up in a state in which a

playback mode, i.e. a play mode (see paragraph [0066]), for display is set, controls the

driving unit without moving the optical system to the predetermined state by the

initialization processing based on the startup program (see paragraph [0067]).

Suemoto et al., however, do not explicitly disclose that, when in a photographing

mode, the startup program does not comprise an operating system, and, after the

photographing mode initialization processing and during playback mode, the control unit controls the driving unit based on a control program comprising the operating system. However, Suemoto discloses that the problem sought to be solved by his invention is to decrease the amount of time required for the camera to be ready for recording (see paragraphs [0007] and [0081]).

The concept and the advantage of initializing hardware components in a computer system using a startup BIOS program, which would subsequently load the operating system after the initialization is completed, are old and well known in the art, as evidenced by Abgrall (see col. 1, lines 4-48). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a startup routine as part of the POST routine of the BIOS to initialize the optical system to a known state to the predetermined state, which is a slow mechanical process, before loading the operating system in order to minimize the time required for the camera to operate in the photographing mode, as sought by the invention of Suemoto et al. (see Suemoto et al., paragraphs [0081]). It would have been inherent to control the driving unit based on a control program comprising the operating system after the initialization processing in the photographing mode and during playback mode, since, in both conditions, the operating system would have been loaded by the BIOS.

While it may not be explicitly stated in the reference above that the functionality of an electronic device such as a computer system may be realized by a digital camera, it is well known to a skilled artisan that a digital camera and a computer system are in the same field of endeavor as they are both microcontroller/microprocessor controlled

devices for processing data, such as imaging, image processing, and/or image manipulation.

Even if a digital camera and a computer system are not in the same field of endeavor, which the examiner does not concede, a digital camera and a computer system are reasonably pertinent to solving the problem of controlling the initialization of an optical system before loading an operating system, and would have commended themselves to an artisan addressing such a problem. In re Clay, 966 F.2d 656, 658, 23 USPQ2d 1058, 1060 (Fed. Cir. 1992).

Regarding **claim 2**, Suemoto et al. disclose a memory (42, 22b, 22c) which inherently stores the startup BIOS program and control program, and wherein the control unit reads the startup program from the memory, i.e. reading and interpreting information that would be inherently required to control motors 70, 72 and 74 associated with the optical system, and reads the control program other than the program for startup from the memory, i.e. reading and interpreting information that would be inherently required to control the signal processing means, after making the driving unit start driving of the optical system to the predetermined state by an execution of the program for startup.

Suemoto et al. does not explicitly teach that the control unit starts to move the optical system to the predetermined state by the initialization processing based on the startup program, and reads the control program from the memory without waiting a movement of the optical system to the predetermined state. However, Suemoto

discloses that the problem sought to be solved by his invention is to decrease the amount of time required for the camera to be ready for recording (see paragraphs [0007] and [0081]). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the control unit move the optical system to the predetermined state, which is a slow mechanical process, and to read the control program from the memory without waiting a movement of the optical system to the predetermined state in order to decrease the time required for the camera to be ready for recording.

Regarding **claim 3**, official notice is taken that it is old and well known to store programs in a memory either continuously or non-continuously. Therefore, it would have been obvious to one having ordinary skilled in the art at the time the invention was made to store other control programs continuously after the program for startup in order to access said control programs faster decreasing processing time.

Method **claim 4** is drawn to the method of using the corresponding apparatus claimed in claims 1. Therefore method claim 4 corresponds to apparatus claim 1 and is rejected for the same reasons of obviousness as used above.

Response to Arguments

Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wanda M. Negrón whose telephone number is (571) 270-1129. The examiner can normally be reached on Mon-Fri 6:30 am - 4:00 pm alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Wanda M. Negrón/
Examiner, Art Unit 2622
October 11, 2007

DAVID OMETZ
SUPERVISORY PATENT EXAMINER